

NOWELL AMOROSO KLEIN BIERMAN, P.A.
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Attorneys for Third-Party Defendant,
UPS Ground Freight, Inc. d/b/a UPS
Freight, f/k/a Overnite Transportation

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HOLTEC INTERNATIONAL CORPORATION,
a Delaware Corporation,

Plaintiff,
(RMB) (AMD)

Civil Action No.:
09-cv-274

v.

PREFERRED METAL TECHNOLOGIES, INC.,
an Illinois Corporation,

Defendant.

**DECLARATION OF
THOMAS C. MARTIN, ESQ.
IN SUPPORT OF RESPONSE
TO OPPOSITION OF
PREFERRED METAL
TECHNOLOGIES, INC.'S
TO UPS FREIGHT, INC'S
MOTION FOR
SUMMARY JUDGMENT**

PREFERRED METAL TECHNOLOGIES, INC.,
Third-Party Plaintiff,

v.

UPS GROUND FREIGHT, INC., d/b/a UPS
FREIGHT, f/k/a OVERNITE
TRANSPORTATION,

Third-Party Defendant.

I, Thomas C. Martin, Esq., hereby certify:

1. I am an attorney at law admitted to practice in the
State of New Jersey and a partner in the law firm of Nowell

Amoroso Klein Bierman, P.A.

2. Attached hereto as Exhibit "A" is a true and accurate copy of a Bill of Lading dated October 15, 2007 by Preferred Metal Technologies shipping "1" "Crate" of "Racksavers" and which states on the face of the Bill of Lading, "The agreed or declared value of the property is specifically stated by the shipper to be not exceeding ____ per ____ \$104,000.00." The Bill of Lading was produced by Plaintiff, Holtec.

3. Preferred Metal Technologies did not respond to UPS Freight's discovery. On November 25, 2009, four (4) months before PMT served any discovery, UPS Freight served interrogatories, a document demand and a notice to take depositions (to schedule a deposition for January 27, 2010) upon PMT. PMT never responded and did not appear for depositions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the forgoing is true and correct. Executed on January 24, 2011.

NOWELL AMOROSO KLEIN BIERMAN, P.A.
Attorney for
Third-Party Defendant,
UPS Ground Freight, Inc. d/b/a UPS
Freight, f/k/a
Overnite Transportation

By: 
Thomas C. Martin
Thomas C. Martin

Dated: January 24, 2011

EXHIBIT “A”

Confidential - Subject to a Discovery Confidentiality Order

ORIGINAL - NOT NEGOTIABLE

Name of Carrier REFERENCE TRANSGROUP

Carrier's Pro No. _____
Shipper's Bill of Lading No. _____
Consignee's Reference/PO No. _____
Carrier's Code (SCAC) _____

RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request.

From REFERENCE METAL TECHNOLOGIES

Date 10-15-07

Street 140 EAST TOWER City DOUG RIDGE County 1 State FL Zip 60507

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned, and destined as shown below which said carrier agrees to carry to destination, if on its route, or otherwise to deliver to another carrier on the route to destination. Every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, hereto contained, including the conditions on the back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

Consigned to FLORIDA POWER & LIGHT (TURKEY POINT NUCLEAR 3 & 4)

On Collect on Delivery Shipments, the letters "C.O.D." must appear before consignee's name.

Destination Street 10 MILES EAST OF U.S. RT. 1 ON PALM DR.

City FLORIDA CITY County _____ State FL Zip 33034

Delivering Carrier _____ Trailer No. _____

Additional Shipment Information _____

Collect on Delivery \$ _____ and remit to: _____
Street _____ City _____ State _____
C.O.D. charge Shipper ☐
to be paid by Consignee ☐

Handling Units No. Type	Packages No. Type	HM	Kind of Package, Description of Articles, Special Marks and Exceptions (Subject to correction)	Weight (Subject to Correction)	Class or Rate Ref. (For Info. Only)	Cube (Optional)
1			<u>CRATE</u> <u>192" x 34" WIDE x 25" TALL</u> <u>FP&L PB #000649.60</u> <u>RACKRAVER ID #s SHOWN ON ATTACHED</u> <u>SHT.</u>	<u>1000 #</u>		

Mark "X" to designate Hazardous Materials as defined in Department of Transportation Regulations.

NOTE (1) Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property as follows:

The agreed or declared value of the property is specifically stated by the shipper to be not exceeding _____ per \$104,000.00

NOTE (2) Liability Limitation for loss or damage on this shipment may be applicable. See 49 U.S.C. § 14705(c)(1)(A) and (B).

NOTE (3) Commodities requiring special or additional care or attention in handling or stowing must be so marked and packaged as to ensure safe transportation with ordinary care. See Sec. 2(e) of NMFC Item 360.

Notify if problem enroute or at delivery _____ Name _____ Fax No. _____ Tel. No. _____ (for informational purposes only)

Send freight bill to: _____ Company Name _____ City _____ Street _____ State _____ Zip _____

Shipper _____ Carrier _____
Per _____ Per _____ Date _____

Shipper Certification I certify that the above named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation. Per _____ Date _____	Carrier Certification Carrier acknowledges receipt of packages and required documents. Carrier certifies emergency response information was made available and/or carrier has the Department of Transportation emergency response guidebook or equivalent document in the vehicle. Per _____ Date <u>10/15/07</u> Package No. _____
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Freight charges are PREPAID unless marked collect. CHECK BOX IF COLLECT ☐

FOR FREIGHT COLLECT SHIPMENTS:

If this shipment is to be delivered to the consignee, without recourse on the consignor, the consignor shall sign the following statement: The carrier may decline to make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of Consignor)